

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 2005-83-A - ORDER NO. 2021-357

MAY 18, 2021

IN RE: Public Service Commission of South	)	ORDER DENYING
Carolina - Administrative and Procedural	)	PETITION FOR
Matters	)	RECONSIDERATION

This matter comes before the Public Service Commission of South Carolina (“the Commission”) on the Petition for Reconsideration of Commission Order No. 2021-57 filed by Duke Energy Progress, LLC (“DEP”) and Duke Energy Carolinas, LLC (“DEC”) (together, “the Duke Companies”) The Petition is denied.

Commission Order No. 2021-57 established a procedural schedule for electric fuel and purchased gas adjustment proceedings. DEP and DEC state that the procedural schedule established by the Commission provides either zero business days or one business day between the filing and service of other parties’ surrebuttal testimony and the hearing date, which the Duke Companies believe will compromise the procedural fairness of the proceedings and violate their due process rights. In their Petition, DEP and DEC request that the procedural schedule for their annual electric fuel proceedings be modified to extend the time between the deadline for submission of surrebuttal testimony and the date of the hearing to provide them with sufficient time to provide a meaningful response to any surrebuttal testimony that might be filed in these dockets. The Duke Companies assert that the present schedule is inconsistent with due process and the Commission’s own rules.

DEP and DEC cite S.C. Code Ann. Regs. 103-829 and 103-833, which require motions be filed ten days before a hearing, and discovery be served not less than ten days prior to a hearing. The Duke Companies assert that there should be a seven-day window between the filing of surrebuttal testimony and the hearing date.

We disagree. As DEP and DEC are fully aware, there is limited time from the beginning of electric fuel proceedings to the hearing, and then to the date of issuance of the order on the merits. This is necessitated by needing the most current information on fuel costs to be presented at the proceeding. Further, the opportunity to present surrebuttal testimony is discretionary with the Commission. Palmetto Alliance, Inc. v. South Carolina Public Service Commission, 282 S.C. 430, 319 S.E. 2d 695 (1984). Such testimony should be limited only to new information in the company's rebuttal testimony. Id. The company is required to make its case through its direct testimony and exhibits, and intervenors and other parties are to make their cases through their direct testimony. Rebuttal testimony is where the utility may address or counter issues raised by intervenors and other parties. Rebuttal testimony should be limited and is not the place to make the company's case-in-chief. Therefore, even if surrebuttal testimony is allowed, which would be discretionary with the Commission, the issues raised in such testimony should also be limited. For these reasons, we discern no error in this Commission setting limited time between the filing of surrebuttal testimony and the hearing date. The companies should not be prejudiced, and there is no violation of due process rights. In addition, the limited time available for a fuel proceeding just does not allow for the relief requested by the Duke Companies.

For the reasons stated herein, the Petition for Reconsideration is denied.

This Order shall remain in full force and effect until further order of the Commission.

BY ORDER OF THE COMMISSION:



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Justin T. Williams, Chairman  
Public Service Commission of  
South Carolina